

House Study Bill 210 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON BALTIMORE)

A BILL FOR

1 An Act relating to temporary restricted licenses and ignition
2 interlock devices for operating-while-intoxicated offenses
3 and providing penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321J.2, subsection 3, paragraph c,
2 unnumbered paragraph 1, Code 2013, is amended to read as
3 follows:

4 Assessment of a fine of one thousand two hundred fifty
5 dollars. However, in the discretion of the court, if no
6 personal or property injury has resulted from the defendant's
7 actions, the court may waive up to six hundred twenty-five
8 dollars of the fine when the defendant presents to the court at
9 the end of ~~the~~ any minimum period of ineligibility a temporary
10 restricted license issued pursuant to section 321J.20.

11 Sec. 2. Section 321J.2, subsection 3, paragraph d, Code
12 2013, is amended by striking the paragraph and inserting in
13 lieu thereof the following:

14 d. Revocation of the person's driver's license for a minimum
15 period of one hundred eighty days up to a maximum revocation
16 period of one year, pursuant to section 321J.4, subsection 1,
17 section 321J.9, or section 321J.12, subsection 2.

18 (1) A defendant whose alcohol concentration is .08 or more
19 shall be eligible for a temporary restricted license upon
20 conviction if a test was obtained and no accident resulting in
21 personal injury or property damage occurred. If such accident
22 occurred, the defendant shall be eligible for a temporary
23 restricted license after any period of ineligibility as
24 determined by the court.

25 (2) A defendant whose revocation occurs because the
26 defendant refused to submit to chemical testing under section
27 321J.9 shall be eligible for a temporary restricted license
28 ninety days after conviction.

29 (3) The department shall require the defendant to install
30 an ignition interlock device of a type approved by the
31 commissioner of public safety on all vehicles owned or operated
32 by the defendant if the defendant seeks a temporary restricted
33 license.

34 Sec. 3. Section 321J.4, subsections 1 through 4, Code 2013,
35 are amended by striking the subsections and inserting in lieu

1 thereof the following:

2 1. If a defendant is convicted of a violation of section
3 321J.2 and the defendant's driver's license or nonresident
4 operating privilege has not been revoked under section 321J.9
5 or 321J.12 for the occurrence from which the arrest arose, the
6 department shall revoke the defendant's driver's license or
7 nonresident operating privilege for one hundred eighty days
8 if the defendant submitted to chemical testing and has had
9 no previous conviction or revocation under this chapter and
10 shall revoke the defendant's driver's license or nonresident
11 operating privilege for one year if the defendant refused to
12 submit to chemical testing and has had no previous conviction
13 or revocation under this chapter.

14 a. A defendant whose alcohol concentration is .08 or more
15 shall be eligible for a temporary restricted license upon
16 conviction if a test was obtained and no accident resulting in
17 personal injury or property damage occurred. If such accident
18 occurred, the defendant shall be eligible for a temporary
19 restricted license after any period of ineligibility as
20 determined by the court.

21 b. A defendant whose revocation occurs because the person
22 refused to submit to chemical testing under section 321J.9
23 shall be eligible for a temporary restricted license ninety
24 days after conviction.

25 c. The department shall require the defendant to install
26 an ignition interlock device of a type approved by the
27 commissioner of public safety on all vehicles owned or operated
28 by the defendant if the defendant seeks a temporary restricted
29 license.

30 d. If the defendant is under the age of twenty-one, the
31 defendant shall be eligible for a temporary restricted license
32 after any period of ineligibility as determined by the court.

33 2. If a defendant is convicted of a violation of section
34 321J.2, and the defendant's driver's license or nonresident
35 operating privilege has not already been revoked under section

1 321J.9 or 321J.12 for the occurrence from which the arrest
2 arose, the department shall revoke the defendant's driver's
3 license or nonresident operating privilege for one year if the
4 defendant submitted to chemical testing and has had a previous
5 conviction or revocation under this chapter and shall revoke
6 the defendant's driver's license or nonresident operating
7 privilege for two years if the defendant refused to submit to
8 chemical testing and has had a previous revocation under this
9 chapter.

10 *a.* The defendant shall be eligible for a temporary
11 restricted license on or after the effective date of revocation
12 if the defendant submitted to chemical testing and shall be
13 eligible for a temporary restricted license ninety days after
14 the effective date of revocation if the defendant refused to
15 submit to chemical testing.

16 *b.* The temporary restricted license shall be issued in
17 accordance with section 321J.20, subsection 2.

18 *c.* The department shall require the defendant to install
19 an ignition interlock device of a type approved by the
20 commissioner of public safety on all vehicles owned or operated
21 by the defendant for a minimum period of one year if the
22 defendant seeks a temporary restricted license. A temporary
23 restricted license shall not be granted by the department until
24 the defendant installs the ignition interlock device.

25 3. If the court defers judgment pursuant to section 907.3
26 for a violation of section 321J.2, and if the defendant's
27 driver's license or nonresident operating privilege has not
28 been revoked under section 321J.9 or 321J.12, or has not
29 otherwise been revoked for the occurrence from which the arrest
30 arose, the department shall revoke the defendant's driver's
31 license or nonresident operating privilege for a period of not
32 less than thirty days nor more than ninety days.

33 *a.* A defendant whose alcohol concentration is .08 or more
34 shall be eligible for a temporary restricted license upon
35 conviction if a test was obtained and no accident resulting in

1 personal injury or property damage occurred. If such accident
2 occurred, the defendant shall be eligible for a temporary
3 restricted license after any period of ineligibility as
4 determined by the court.

5 *b.* A defendant whose revocation occurs because the person
6 refused to submit to chemical testing under section 321J.9
7 shall be eligible for a temporary restricted license ninety
8 days after conviction.

9 *c.* The department shall require the defendant to install
10 an ignition interlock device of a type approved by the
11 commissioner of public safety on all vehicles owned or operated
12 by the defendant if the defendant seeks a temporary restricted
13 license.

14 *d.* If the defendant is under the age of twenty-one, the
15 defendant shall be eligible for a temporary restricted license
16 after any period of ineligibility as determined by the court
17 upon conviction.

18 4. Upon a plea or verdict of guilty of a third or subsequent
19 violation of section 321J.2, the department shall revoke the
20 defendant's driver's license or nonresident operating privilege
21 for a period of six years.

22 *a.* The department shall credit any period that the
23 defendant's driver's license or nonresident operating privilege
24 was revoked under section 321J.9 or 321J.12 for the same
25 occurrence toward the six-year revocation period, limiting the
26 total revocation period for the same occurrence to six years.

27 *b.* The defendant shall be eligible for a temporary
28 restricted license for the remainder of the six-year period
29 after any period of ineligibility as determined by the court.

30 *c.* The department shall require the defendant to install
31 an ignition interlock device of a type approved by the
32 commissioner of public safety on all vehicles owned or operated
33 by the defendant if the defendant seeks a temporary restricted
34 license. A temporary restricted license shall not be granted
35 by the department until the defendant installs the ignition

1 interlock device.

2 Sec. 4. Section 321J.4, subsections 5 and 6, Code 2013, are
3 amended to read as follows:

4 5. Upon a plea or verdict of guilty of a violation of
5 section 321J.2 which involved a personal injury, the court
6 shall determine in open court, from consideration of the
7 information in the file and any other evidence the parties may
8 submit, whether a serious injury was sustained by any person
9 other than the defendant and, if so, whether the defendant's
10 conduct in violation of section 321J.2 caused the serious
11 injury. If the court so determines, the court shall order
12 the department to revoke the defendant's driver's license or
13 nonresident operating privilege for a period of one year in
14 addition to any other period of suspension or revocation. The
15 defendant shall not be eligible for any temporary restricted
16 license until the ~~minimum~~ period of ineligibility as determined
17 by the court has expired ~~under this section or section 321J.9,~~
18 ~~321J.12, or 321J.20.~~ The defendant shall surrender to the
19 court any Iowa license or permit and the court shall forward it
20 to the department with a copy of the order for revocation.

21 6. Upon a plea or verdict of guilty of a violation of
22 section 321J.2 which involved a death, the court shall
23 determine in open court, from consideration of the information
24 in the file and any other evidence the parties may submit,
25 whether a death occurred and, if so, whether the defendant's
26 conduct in violation of section 321J.2 caused the death. If
27 the court so determines, the court shall order the department
28 to revoke the defendant's driver's license or nonresident
29 operating privilege for a period of six years. The defendant
30 shall not be eligible for any temporary restricted license
31 ~~for at least two years after the revocation~~ until the period
32 of ineligibility as determined by the court has expired. The
33 defendant shall surrender to the court any Iowa license or
34 permit and the court shall forward it to the department with a
35 copy of the order for revocation.

1 Sec. 5. Section 321J.4, subsection 8, paragraph f, Code
2 2013, is amended to read as follows:

3 *f.* (i) A person who tampers with or circumvents an ignition
4 interlock device ~~installed under a court order while an order~~
5 ~~is in effect~~ commits a serious misdemeanor.

6 (ii) A person who assists a person who tampers with or
7 circumvents an ignition interlock device commits a serious
8 misdemeanor.

9 Sec. 6. Section 321J.4, subsection 8, Code 2013, is amended
10 by adding the following new paragraph:

11 NEW PARAGRAPH. *g.* The department shall credit, on a
12 day-for-day basis, any period of time during which a defendant
13 has held a valid temporary restricted license against the
14 period of time during which the defendant is required to
15 install an ignition interlock device pursuant to this chapter.

16 Sec. 7. Section 321J.12, subsection 2, Code 2013, is amended
17 by striking the subsection and inserting in lieu thereof the
18 following:

19 2. *a.* A person whose driver's license or nonresident
20 operating privileges have been revoked under subsection 1,
21 paragraph "a", whose alcohol concentration is .08 or more shall
22 be eligible for a temporary restricted license on or after the
23 effective date of the revocation if a test was obtained and
24 no accident resulting in personal injury or property damage
25 occurred. If such an accident occurred, the defendant shall
26 be eligible for a temporary restricted license after any
27 period of ineligibility established by the court at the time
28 of arraignment. The department shall require the person to
29 install an ignition interlock device of a type approved by the
30 commissioner of public safety on all vehicles owned or operated
31 by the defendant if the defendant seeks a temporary restricted
32 license.

33 *b.* If the person is under the age of twenty-one, the person
34 shall be eligible for a temporary restricted license after any
35 period of ineligibility as determined by the court at the time

1 of arraignment.

2 *c.* A person whose license or privileges have been revoked
3 under subsection 1, paragraph "b", for one year shall be
4 eligible for a temporary restricted license on or after the
5 effective date of the revocation. The temporary restricted
6 license shall be issued in accordance with section 321J.20,
7 subsection 2. A temporary restricted license shall not
8 be granted by the department until the defendant installs
9 the ignition interlock device of a type approved by the
10 commissioner of public safety on all vehicles owned or operated
11 by the defendant.

12 Sec. 8. Section 321J.17, subsections 1 and 3, Code 2013, are
13 amended to read as follows:

14 1. If the department revokes a person's driver's license
15 or nonresident operating privilege under this chapter, the
16 department shall assess the person a civil penalty of two
17 hundred dollars. The money collected by the department under
18 this section shall be transmitted to the treasurer of state
19 who shall deposit one-half of the money in the separate fund
20 established in section 915.94 and one-half of the money in the
21 general fund of the state. A temporary restricted license
22 shall not be issued unless an ignition interlock device has
23 been installed pursuant to section 321J.4. A driver's license
24 or nonresident operating privilege shall not be reinstated
25 ~~unless proof of deinstallation of that~~ unless proof of installation of that an ignition interlock
26 device installed pursuant to section 321J.4 remained installed
27 and functioning until the end of such period of revocation
28 has been submitted to the department in a format acceptable
29 to the department. Except as provided in section 321.210B, a
30 temporary restricted license shall not be issued or a driver's
31 license or nonresident operating privilege reinstated until
32 the civil penalty has been paid. A person assessed a penalty
33 under this section may remit the civil penalty along with a
34 processing fee of five dollars to a county treasurer authorized
35 to issue driver's licenses under chapter 321M, or the civil

1 penalty may be paid directly to the department.

2 3. The department shall also require certification of
3 installation of an ignition interlock device of a type approved
4 by the commissioner of public safety on all motor vehicles
5 owned or operated by any person seeking reinstatement following
6 a ~~second or subsequent~~ revocation under section 321J.4, 321J.9,
7 or 321J.12, unless such a person has previously received a
8 temporary restricted license during the term of the revocation
9 as authorized by this chapter. ~~The requirement for the~~
10 ~~installation~~ Installation of an approved ignition interlock
11 ~~device shall be~~ is required for a minimum period of six months
12 for a person with no prior license revocations under this
13 chapter, and a minimum period of one year for a person who
14 has had a previous revocation, from the date of reinstatement
15 unless a ~~different time~~ longer period of time is required
16 by statute. The department shall credit, on a day-for-day
17 basis, any period of time during which a person has held a
18 valid temporary restricted license during any revocation for
19 the occurrence from which the arrest arose against the period
20 of time during which the defendant is required to install an
21 ignition interlock device. The person shall not operate any
22 motor vehicle that is not equipped with an approved functioning
23 ignition interlock device during the period in which an
24 ignition interlock device must be installed, and the department
25 shall not grant reinstatement unless the person certifies
26 installation of an ignition interlock device as required in
27 this subsection.

28 Sec. 9. Section 321J.20, subsections 1 and 2, Code 2013,
29 are amended by striking the subsections and inserting in lieu
30 thereof the following:

31 1. The department may, on application, issue a temporary
32 restricted license to a person whose noncommercial driver's
33 license is revoked under section 321J.4, 321J.9, or 321J.12,
34 allowing the person to drive a motor vehicle equipped with an
35 ignition interlock device for all lawful purposes not requiring

1 a commercial driver's license, subject to any court-ordered
2 or statutory period of ineligibility. A temporary restricted
3 license shall not be issued until the applicant installs a
4 functioning ignition interlock device of a type approved by the
5 commissioner of public safety on all motor vehicles owned or
6 operated by the applicant in accordance with section 321J.2,
7 321J.4, 321J.9, or 321J.12. Installation of an ignition
8 interlock device under this subsection shall be required for
9 the period of time for which the temporary restricted license
10 is issued and for any such additional period of time following
11 reinstatement required pursuant to section 321J.17, subsection
12 3.

13 2. *a.* Notwithstanding section 321.560, the department may,
14 on application, and upon the expiration of the minimum period
15 of ineligibility for a temporary restricted license provided
16 for under section 321.560, 321J.4, 321J.9, or 321J.12, issue a
17 temporary restricted license to a person whose noncommercial
18 driver's license has either been revoked under this chapter, or
19 revoked or suspended under chapter 321 for violations of this
20 chapter, or who has been determined to be a habitual offender
21 under chapter 321 based on violations of this chapter or on
22 violations listed in section 321.560, subsection 1, paragraph
23 "b", and who is not eligible for a temporary restricted license
24 under subsection 1. However, the department may not issue
25 a temporary restricted license under this subsection for a
26 violation of section 321J.2A or to a person under the age
27 of twenty-one whose license is revoked under section 321J.4,
28 321J.9, or 321J.12.

29 *b.* A temporary restricted license issued under this
30 subsection shall not be issued until the applicant installs
31 an approved ignition interlock device on all motor vehicles
32 owned or operated by the applicant. Installation of an
33 approved ignition interlock device under this subsection shall
34 be required for the period of time for which the temporary
35 restricted license is issued and for such additional period

1 of time following reinstatement required pursuant to section
2 321J.17, subsection 3. However, a person whose driver's
3 license or nonresident operating privilege has been revoked
4 under section 321J.21 may apply to the department for a
5 temporary restricted license without the requirement of
6 an ignition interlock device if at least twelve years have
7 elapsed since the end of the underlying revocation period for
8 a violation of section 321J.2.

9 Sec. 10. Section 321J.20, subsection 4, Code 2013, is
10 amended by striking the subsection.

11 Sec. 11. Section 321J.20, subsection 8, Code 2013, is
12 amended to read as follows:

13 8. a. A person who tampers with or circumvents an ignition
14 interlock device installed as required in this chapter and
15 while the requirement for the ignition interlock device is in
16 effect commits a serious misdemeanor.

17 b. A person who assists a person who tampers with or
18 circumvents an ignition interlock device installed as required
19 in this chapter and while the requirement for the ignition
20 interlock device is in effect commits a serious misdemeanor.

21 Sec. 12. Section 321J.20, Code 2013, is amended by adding
22 the following new subsection:

23 NEW SUBSECTION. 9. The department shall credit, on a
24 day-for-day basis, any period of time during which a person has
25 held a temporary restricted license against the period of time
26 during which the person is required to install the ignition
27 interlock device pursuant to this chapter.

28 EXPLANATION

29 This bill relates to temporary restricted licenses for
30 operating-while-intoxicated violators and provides penalties.

31 TEMPORARY RESTRICTED LICENSES. Current law provides
32 different statutory periods of ineligibility for a temporary
33 restricted license for persons whose licenses are revoked
34 due to a criminal conviction or an administrative action
35 under Code chapter 321J (Iowa's operating-while-intoxicated

1 law) depending upon the circumstances of the offense or
2 violation. The bill provides that a first-time offender who
3 is convicted of or who has received a deferred judgment for an
4 operating-while-intoxicated offense pursuant to Code section
5 321J.2 while having an alcohol concentration of .08 or more and
6 a person who has not had an administrative license revocation
7 due to a test failure pursuant to Code section 321J.12 may
8 apply to the department of transportation (department) for a
9 temporary restricted license immediately upon conviction or
10 revocation unless an accident with property damage or personal
11 injury occurred. In those cases, the court has the discretion
12 to impose a period of ineligibility for a temporary restricted
13 license on the offender. The bill also amends prior law to
14 allow the court to impose a period of ineligibility for a
15 temporary restricted license in all cases involving persons
16 under the age of 21, for criminal convictions under Code
17 section 321J.2 that involve serious injury or death, and for
18 third and subsequent criminal convictions under Code section
19 321J.2. The bill retains current law relating to the 90-day
20 ineligibility period for persons who refuse to submit to
21 testing pursuant to Code section 321J.9.

22 The bill requires a person who has had a previous license
23 revocation under Code chapter 321J who applies for a temporary
24 restricted license to install an ignition interlock device
25 on the defendant's vehicle for one year after any period of
26 ineligibility to conform to federal law.

27 The bill requires the department to credit, on a day-for-day
28 basis, any period of time during which a defendant holds a
29 valid temporary restricted license against the period of time
30 during which the defendant is otherwise required to install an
31 ignition interlock device under Code chapter 321J.

32 TEMPORARY RESTRICTED LICENSE RESTRICTIONS. Current law
33 provides that the department may issue a temporary restricted
34 license to allow a person to drive to and from the person's
35 home and specified places at specified times which are required

1 by the person's full-time or part-time employment, continuing
2 education while enrolled in an educational institution on a
3 part-time or full-time basis and while pursuing a course of
4 study leading to a diploma, degree, or other certification
5 of successful educational completion, or substance abuse
6 treatment. A person holding a temporary restricted license is
7 also restricted from operating a motor vehicle for pleasure.
8 The bill eliminates these driving restrictions for persons who
9 hold temporary restricted licenses.

10 NEW OFFENSE — TAMPERING OR CIRCUMVENTING IGNITION INTERLOCK
11 DEVICE — ASSISTANCE. Current law provides that a person
12 who tampers with or circumvents an ignition interlock device
13 installed pursuant to court order is guilty of a serious
14 misdemeanor. The bill provides that a person who assists a
15 person in the tampering with or circumvention of an ignition
16 interlock device is also guilty of a serious misdemeanor. A
17 serious misdemeanor is punishable by confinement for no more
18 than one year and a fine of at least \$315 but not more than
19 \$1,875.

20 CONDITIONS FOR LICENSE REINSTATEMENT. Under current law,
21 if the department revokes a person's driver's license or
22 nonresident operating privilege under Code chapter 321J, a
23 driver's license or nonresident operating privilege shall not
24 be reinstated by the department unless the person seeking
25 reinstatement completes certain requirements. The bill
26 provides that a driver's license or nonresident operating
27 privilege shall not be reinstated unless proof that an ignition
28 interlock device remained installed and functioning until the
29 end of the revocation period is submitted to the department in
30 a format acceptable to the department. The bill also provides
31 that, unless a person has previously received a temporary
32 restricted license during any term of revocation under Code
33 chapter 321J, a functioning ignition interlock device shall
34 be installed for a minimum period of six months for a person
35 whose driver's license or nonresident operating privilege

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1 has not been previously revoked under Code chapter 321J, and
2 a minimum of one year for a person who has had a previous
3 revocation from the date of reinstatement unless a longer time
4 period is required by statute. The department is required
5 to credit, on a day-for-day basis, any period of time during
6 which a person has held a valid temporary restricted license
7 during any revocation for the occurrence from which the arrest
8 arose against the period of time during which the defendant is
9 otherwise required to install an ignition interlock device.